

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *ube* D.C.

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THOMAS H. GOULD
CLERK, U.S. DISTRICT COURT
WD OF TENNESSEE

UNITED STATES OF AMERICA,

Plaintiff,

vs.

VERONDA JACKSON,

Defendant.

No. 05-20070BV ✓
05-20077BV

ORDER DENYING DEFENDANT JACKSON'S MOTION
FOR DISCLOSURE OF CO-DEFENDANTS' AND/OR CO-CONSPIRATORS' STATEMENTS

Before the court is the October 28, 2005 motion of defendant Veronda Jackson for an order directing the government to furnish Jackson any and all statements by co-defendants and/or co-conspirators and any other relevant statements. Jackson is charged in a one-count indictment along with co-defendants Rita Williamson, Greg Long, and Carolyn Kirk-Wiggly with conspiracy to possess with intent to distribute and to distribute approximately 20 grams of crack cocaine from on or about November 30, 2004, until December 22, 2004, in violation of 21 U.S.C. § 846. This motion was referred to the United States Magistrate Judge for determination. For the reasons below, Jackson's motion is denied.

In support of her motion, Jackson states, without citation to any case law, that co-conspirators' statements which the United States intends to introduce at trial are discoverable because those

statements will be attributed to the defendant under Federal Rule of Evidence 801(d)(2)(E). Jackson maintains, again without citation to any legal authority, that it is within the discretion of the court to order production of the co-defendants' statement. In response, the government insists that it is not required to disclose the co-conspirators' statements and that the defendant has no right to even know the identity of alleged co-conspirators. *United States v. Rey*, 923 F.2d 1217 (6th Cir. 1991).

Federal Rule of Criminal Procedure 16(a) governs pretrial discovery in criminal matters and sets forth the general guidelines governing the government's duty to disclose information to the defense. Rule 16(a)(2) expressly provides:

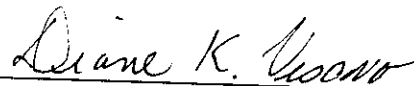
Except as Rule 16(a)(1) provides otherwise, this rule does not authorize discovery or inspection of reports, memoranda, or other internal government documents made by an attorney for the government or other government agent in connection with investigating or prosecuting the case. Nor does this rule authorize the discovery or inspection of statements made by prospective government witnesses except as provided in 18 U.S.C. § 3500.

FED. R. CRIM. P. 16(a)(2). The Jencks Act, 18 U.S.C. § 3500, requires production of a witness's statement only after the witness has testified on direct examination. Rule 26.2 likewise requires production of witness statements only after a witness has testified. FED. R. CRIM. P. 26.2(a). Unless co-defendants or co-conspirators are called as witnesses by the government, their statements are not required to be produced under the Jencks Act or

in advance of trial under the Federal Rules of Criminal Procedure. Jackson has cited no other basis for her request for statements of co-defendants and co-conspirators. The request for statements of co-conspirators and co-defendants appears to be merely an effort to circumvent Rule 16 of the Federal Rules of Criminal Procedure and to obtain otherwise impermissible discovery.

Accordingly, Jackson's motion is denied.

It is so ordered this 22nd day of November, 2005.

A handwritten signature in cursive script, reading "Diane K. Vesco", is written over a horizontal line.

DIANE K. VESCOVO
UNITED STATES MAGISTRATE JUDGE



Notice of Distribution

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Honorable J. Breen
US DISTRICT COURT